United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CARLA CHOMKA,

　　　　　Plaintiff,

　　v.

WALGREEN CO.,

　　　　　Defendant.

Case No. 23-cv-06512-RS

ORDER DENYING MOTION TO REMAND

Plaintiff Carla Chomka filed this action in Santa Clara Superior Court against defendant Walgreen, Co. alleging she suffered personal injuries as the result of a dangerous condition she encountered while shopping at a Walgreens retail store. The complaint names ten "Doe" defendants, described only as agents or employees of Walgreen, acting within the scope of that agency or employment.

Walgreen removed the action to this court, asserting removal jurisdiction exists on grounds of diversity. Chomka seeks remand, contending "[i]t is reasonable to assume at least some of Defendant's employees who were working at the store where the accident that injured Plaintiff occurred and who are potential defendants live in California . . . ." Chomka suggests Walgreen's agents, contractors, and other persons who live in California are also potential defendants. Chomka does not dispute, however, that there is complete diversity as between Walgreen and herself and that the amount in controversy requirement is satisfied.
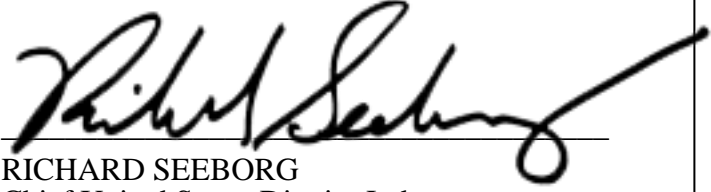
The motion has previously been ordered submitted without oral argument. Chomka was

given the opportunity to file a reply brief in support of her motion, but has not done so, and the time has expired. The motion to remand is denied.

"The propriety of removal is determined solely on the basis of the pleadings filed in state court." *Williams v. Costco Wholesale Corp*., 471 F.3d 975, 976 (9th Cir. 2006). Chomka's complaint named only Walgreen Co., as to which diversity undisputedly exists, and ten fictious "Doe" defendants, who are disregarded when determining removability based on diversity. 28 U.S.C. § 1441(b)(1). That Chomka believes she may later seek to pursue claims against other persons who might be citizens of California is not a basis for remand.

IT IS SO ORDERED.

Dated: February 26, 2024

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RICHARD SEEBORG
Chief United States District Judge